



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

DIVISION OF STATE COUNSEL
LITIGATION BUREAU

December 8, 2022

BY ECF

Honorable Rachel P. Kovner
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Rives v. SUNY Downstate College of Medicine*, No. 20-cv-00621

Dear Judge Kovner:

This Office represents Defendants in the above-referenced matter. Given Plaintiff's failure to respond to the Court's Order to Show Cause by the December 2, 2022 deadline, I respectfully request that Defendants' motion to dismiss the Second Amended Complaint ("SAC") be granted in its entirety and the remainder of Plaintiff's claims dismissed.

Defendants' motion to dismiss the SAC was fully briefed on October 20, 2021. *See* ECF Nos. 59-66. On September 30, 2022, the Court issued a Memorandum and Order dismissing most of Plaintiff's claims, deferring decision on the remainder of Defendants' motion to dismiss, and ordering Plaintiff to show cause within 30 days "why his Section 1983 claims against the individual defendants for procedural-due-process and Takings-Clause violations should not be dismissed for failure to state a claim on the grounds set out in this order." *See* ECF No. 72.

Plaintiff requested and received two extensions of time to respond to the Order to Show Cause, and his response was ultimately due on December 2, 2022. *See* ECF Nos. 76, 79. It is now six days past that deadline and, as of the date hereof, Plaintiff has not responded to the Order to Show Cause in any way, nor has he requested another extension of time to do so.¹

In light of Plaintiff's failure to respond to the Order to Show Cause, Defendants respectfully request that their motion to dismiss be granted in its entirety and the remainder of Plaintiff's claims dismissed. I thank the Court for its attention to this matter.

Respectfully submitted,

/s/ Eva L. Dietz

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cc: Jan-Michael Rives, Plaintiff *pro se* (by electronic mail)

¹ Indeed, in his second extension request, Plaintiff told the Court that "[t]here will not be a third." *See* ECF No. 79.